

DRAFT Amendments to Article 3

PERMITTED USES	A	R-E	R-1	R-2	R-3	R-MH1	R-MH2	C-D	C-N	C-C	C-H52	C-E	BI1	I	P	Additional Regulations (Apply in All Districts Unless Otherwise Stated)
Medical marijuana operations.																(20)
Medical marijuana primary caregiver (5 or fewer patients)		P	P	P	P	P	P		C		P					(21), C-H52: (22)

- (20) Ordinance #~~xxx~~ bans medical marijuana operations from the Town of Frederick as permitted by State Statute 43.3~~xxx~~.

(a) Amortization of nonconforming uses.

i.

This

section shall supersede and apply in lieu of Section 3.6 of this code, regarding nonconforming uses, as to *medical marijuana operations* only.

ii.

Any

medical marijuana operation operating on or before December 1, 2010, that is in violation of this chapter shall be deemed a nonconforming use and must be discontinued within the time periods prescribed herein. A nonconforming *medical marijuana operation* will be permitted to continue for a period of one (1) year from December 1, 2010, with a potential operating time extension for extenuating circumstances not to go beyond July 31, 2012, unless sooner terminated for any reason or voluntarily discontinued for a period of thirty (30) days or more. An application for a time extension for extenuating circumstances may be granted in writing by the Board of Trustees only upon a finding of extreme hardship on the health of Registry patients then served by the *medical marijuana operation* if the operation was to close.

iii.

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tanding the period during which nonconforming *medical marijuana operations* are permitted to continue by this section, all nonconforming *medical marijuana operations* shall acknowledge in writing the obligation to close the operation and initiate closure of the operation pursuant to this section within ninety (90) days of the effective date of the ordinance enacting this section, and shall provide evidence of compliance thereof to the Town Planning Director.

iv.

During

the amortization period, a nonconforming *medical marijuana operation* shall not be increased, enlarged, extended or altered except that the use shall become a conforming use by pursuing in good faith the requisite closure of the operation.

- (21) Development standards for primary caregiver operations:

- (a) All primary caregivers shall comply with the specific use standards for a home occupation as defined in this Article in addition to those specific standards for a primary caregiver in this article.
- (b) A primary caregiver may only provide services out of a private residence, located within a residential zone district, and no medical marijuana may be cultivated, produced, processed, or dispensed other than at the caregiver's residence, unless the caregiver has secured appropriate waivers for transportation of medical marijuana to homebound patients as issued by the state licensing authority. Copies of all such waivers shall be provided to the local licensing authority.
- (c) No more than one primary caregiver shall operate from any residence, and no primary caregiver may join together with another primary caregiver or patient for the purpose of cultivating medical marijuana.
- (d) A primary caregiver shall have his or her registry identification card in his or her possession at all times that he or she is in possession of any form of medical marijuana and produce the same upon request of a law enforcement officer or representative of the local licensing authority in order to demonstrate that the caregiver or any patient served is not in violation of the law.
- (e) A primary caregiver shall maintain with the local licensing authority a list of his or her patients, including the registry identification card number of each patient, at all times. A primary caregiver shall provide to the local licensing authority and any inquiring law enforcement agency, upon request, such list and copies of the registry identification cards for each of his or her patients.
- (f) A primary caregiver shall not have an employee, agent, or otherwise delegate to any other person any portion of his or her duties, function, or authority to provide medical marijuana to a patient nor may a caregiver engage others to assist in producing, providing, transporting, or administering medical marijuana to a patient in accordance with CRS 25-1.5-106.
- (g) A primary caregiver shall not:
 - i. Engage in the use of marijuana in a way that endangers the health and wellbeing of a person, whether the caregiver is also a patient or not.
 - ii. Engage in or allow any patient at caregiver's residence to engage in the use of marijuana in plain view of or in a place open to the general public, in the presence of any person under the age of eighteen (18), or in the presence of any person who is not also a patient.
 - iii. Operate a motor vehicle or undertake any task while under the influence of marijuana, when doing so would constitute negligence or professional malpractice.
 - iv. Possess medical marijuana or otherwise engage in the use of medical marijuana on a school bus or within one thousand feet (1,000') of a school, library, child care center or public or private park; or

two hundred fifty feet (250') of any group home facility, hospital, correctional facility, or public utility facility.

- (h) If a primary caregiver raises an exception to the state criminal laws as provided in Section 14(2)(b) or (c) of Article XVIII of the State Constitution, the caregiver waives the confidentiality of his or her records related to the condition or conditions that were the basis for the recommendation maintained by the state health agency for the medical marijuana program, and such caregiver must provide in full to the local licensing authority all records related to the subject condition upon request.
- (i) An application for primary caregiver license shall be made in writing to the Town Clerk.

i.

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application must be signed by the person who is applying for a primary caregiver license as well as the property owner if he or she is not the license applicant. The property owner shall acknowledge on the application consent to the application for a primary caregiver license.

- (j) Amount of medical marijuana allowed. Primary caregivers are allowed no more than six marijuana plants per registered patient, with three or fewer being mature, flowering plants that are producing a usable form of marijuana.

(22)

In the C-H52 zone, primary caregivers may operate if their home is not a mixed use dwelling unit. The home must be one unit in a single-family attached dwelling subdivision.

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